

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1155
92ND GENERAL ASSEMBLY

Reported from the Committee on Commerce and the Environment, March 15, 2004, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

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TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 99.1000 and 99.1018, RSMo, and to enact in lieu thereof two new sections relating to the Missouri rural economic stimulus authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 99.1000 and 99.1018, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 99.1000 and 99.1018, to read as follows:

99.1000. As used in sections 99.1000 to 99.1060, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Authority", the rural economic stimulus authority for a municipality, created pursuant to section 99.1006;

(2) "Baseline year", the calendar year prior to the adoption of an ordinance by the municipality approving a development project;

(3) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes, economic activity taxes other than economic activity taxes which are local sales taxes, and other local taxes other than local sales taxes, and, for local sales taxes and state taxes, the director of revenue;

(4) "Development area", an area designated by a municipality which area shall have the following characteristics:

(a) It includes only those parcels of real property directly and substantially benefited by the proposed development plan;

(b) It can be renovated through one or more development projects;

(c) It is contiguous, provided, however that a development area may include up to three noncontiguous areas selected for development projects, provided that each noncontiguous area meets the requirements of paragraphs (a) and (b) of this subdivision; and

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(d) The development area shall not exceed ten percent of the entire area of the municipality.

Subject to the limitation set forth in this subdivision, the development area can be enlarged or modified as provided in section 99.1036;

(5) **"Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;**

(6) "Development plan", the comprehensive program of a municipality and to thereby enhance the tax bases of the taxing districts which extend into the development area through the reimbursement, payment, or other financing of development project costs in accordance with sections 99.1000 to 99.1060 and through the exercise of the powers set forth in sections 99.1000 to 99.1060. The development plan shall conform to the requirements of section 99.1027;

[6] (7) "Development project", any development project within a development area which creates a renewable fuel production facility **or eligible new generation processing entity**, and any such development project shall include a legal description of the area selected for such development project;

[7] (8) "Development project area", the area located within a development area selected for a development project;

[8] (9) "Development project costs" include such costs to the development plan or a development project, as applicable, which are expended on public property, buildings, or rights-of-ways for public purposes to provide infrastructure to support a development project. Such costs shall only be allowed as an initial expense which, to be recoverable, must be included in the costs of a development plan or development project, except in circumstances of plan amendments approved by the Missouri agricultural and small business development authority and the department of economic development. Such infrastructure costs include, but are not limited to, the following:

(a) Costs of studies, appraisals, surveys, plans, and specifications;

(b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public buildings and fixtures;

(e) Costs of construction of public works or improvements;

(f) Financing costs, including, but not limited to, all necessary expenses related to the issuance of obligations issued to finance all or any portion of the infrastructure costs of one

or more development projects, and which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;

(g) All or a portion of a taxing district's capital costs resulting from any development project necessarily incurred or to be incurred in furtherance of the objectives of the development plan, to the extent the municipality by written agreement accepts and approves such infrastructure costs;

(h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a development project;

(i) State government costs, including, but not limited to, the reasonable costs incurred by the department of economic development, the agricultural and small business development authority, and the department of revenue in evaluating an application for and administering state supplemental rural development financing for a development project; and

(j) Endowment of positions at an institution of higher education which has a designation as a Carnegie Research I University including any campus of such university system, subject to the provisions of section 99.1043;

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[(9)] (10) "Economic activity taxes", the total additional revenue from taxes which are imposed by the municipality and other taxing districts, and which are generated by economic activities within each development project area which exceed the amount of such taxes generated by economic activities within such development project area in the baseline year; but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, or special assessments. If a retail establishment relocates within one year from one facility to another facility within the same county and the municipality or authority finds that the retail establishment is a direct beneficiary of development financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from taxes which are imposed by the municipality and other taxing districts which are generated by economic activities within the development project area which exceed the amount of taxes which are imposed by the municipality and other taxing districts which are generated by economic activities within the development project area generated by the retail establishment in the baseline year;

(11) "Eligible new generation processing entity", as defined in section 348.432, RSMo;

[(10)] (12) "Major initiative", a development project that:

(a) Promotes the development of a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product, the estimated cost of which is in excess of the amount set forth below for the municipality, as applicable; or

(b) Promotes business location or expansion, the estimated cost of which is in excess

of the amount set forth below for the municipality, and is estimated to create at least as many new jobs as set forth below within three years of such location or expansion:

Population of Municipality	Estimated Project Cost	New Jobs Created
99,999 or less	\$3,000,000	at least 30;

[(11)] **(13)** "Municipality", any city, village, incorporated town, or any county of this state established on or prior to January 1, 2001;

[(12)] **(14)** "New job", any job defined as a new job pursuant to subdivision (10) of section 100.710, RSMo;

[(13)] **(15)** "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the municipality or authority, or other public entity authorized to issue such obligations pursuant to sections 99.1000 to 99.1060 to carry out a development project or to refund outstanding obligations;

[(14)] **(16)** "Ordinance", an ordinance enacted by the governing body of any municipality or an order of the governing body of such a municipal entity whose governing body is not authorized to enact ordinances;

[(15)] **(17)** "Other net new revenues", the amount of state sales tax increment or state income tax increment or the combination of the amount of each such increment as determined under section 99.1045;

[(16)] **(18)** "Payment in lieu of taxes", those revenues from real property in each development project area, which taxing districts would have received had the municipality not adopted a development plan and the municipality not adopted development financing, and which would result from levies made after the time of the adoption of development financing during the time the current equalized value of real property in such development project area exceeds the total equalized value of real property in such development project area during the baseline year until development financing for such development project area expires or is terminated pursuant to sections 99.1000 to 99.1060;

[(17)] **(19)** "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

[(18)] **(20)** "Special allocation fund", the fund of the municipality or its authority required to be established pursuant to section 99.1042 which special allocation fund shall contain at least four separate segregated accounts into which payments in lieu of taxes are deposited in one account, economic activity taxes are deposited in a second account, other net new revenues are deposited in a third account, and other revenues, if any, received by the authority or the municipality for the purpose of implementing a development plan or a development project are deposited in a fourth account;

[(19)] **(21)** "State income tax increment", the estimate of the income tax due the state for salaries or wages paid to new employees in new jobs at a business located in the development project area and created by the development project. The estimate shall be a percentage of the gross payroll which percentage shall be based upon an analysis by the department of revenue of the practical tax rate on gross payroll as a factor in overall taxable income. In no event shall the percentage exceed two percent;

[(20)] **(22)** "State sales tax increment", the incremental increase in the state sales tax revenue in the development project area. In no event shall the incremental increase include any amounts attributable to retail sales unless the Missouri agricultural and small business development authority and the department of economic development are satisfied based on the information provided by the municipality or authority, and such entities have made a finding that a substantial portion of all but a de minimus portion of the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. In addition, the incremental increase for an existing facility shall be the amount by which the state sales tax revenue generated at the facility exceeds the state sales tax revenue generated at the facility in the baseline year. The incremental increase for a Missouri facility which relocates to a development project area shall be the amount by which the state sales tax revenue of the facility exceeds the state sales tax revenue for the facility in the calendar year prior to relocation;

[(21)] **(23)** "State sales tax revenues", the general revenue portion of state sales tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law;

[(22)] **(24)** "Taxing districts", any political subdivision of this state having the power to levy taxes; and

[(23)] **(25)** "Taxing district's capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from a development project.

99.1018. 1. The authority created pursuant to section 99.1006 shall constitute a public body corporate and politic, exercising public and essential governmental functions.

2. A municipality or an authority created pursuant to section 99.1006 shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of sections 99.1000 to 99.1060, including the following powers in addition to others granted pursuant to sections 99.1000 to 99.1060:

(1) To prepare or cause to be prepared and approve development plans and development projects to be considered at public hearings in accordance with sections 99.1000 to 99.1060 and to undertake and carry out development plans and development projects

which have been adopted by ordinance;

(2) To arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, streets, roads, public utilities, or other facilities for or in connection with any development project; and notwithstanding anything to the contrary contained in sections 99.1000 to 99.1060 or any other provision of law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of any development project, and to include in any contract let in connection with any such development project provisions to fulfill such of the conditions as it may deem reasonable and appropriate;

(3) Within a development area, to acquire by purchase, lease, gift, grant, bequest, devise, obtain options upon, or otherwise acquire any real or personal property or any interest therein, necessary or incidental to a development project, all in the manner and at such price as the municipality or authority determines is reasonably necessary to achieve the objectives of a development plan;

(4) Within a development area, subject to provisions of section 99.1021 with regard to the disposition of real property, to sell, lease, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal property or any interest therein, all in the manner and at such price and subject to any covenants, restrictions, and conditions as the municipality or authority determines is reasonably necessary to achieve the objectives of a development plan; to make any such covenants, restrictions, or conditions as covenants running with the land, and to provide appropriate remedies for any breach of any such covenants, restrictions, or conditions, including the right in the municipality or authority to terminate such contracts and any interest in the property created pursuant thereto;

(5) Within a development area, to clear any area by demolition or removal of existing buildings and structures;

(6) To install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements as necessary or desirable for the preparation of a development area for use in accordance with a development plan;

(7) Within a development area, to fix, charge, and collect fees, rents, and other charges for the use of any real or personal property, or any portion thereof, in which the municipality or authority has any interest;

(8) To accept grants, guarantees, and donations of property, labor, or other things of value from any public or private source for purposes of implementing a development plan;

(9) In accordance with section 99.1021, to select one or more developers to implement a development plan, or one or more development projects, or any portion thereof;

(10) To charge as a development project cost the reasonable costs incurred by the municipality or authority, the department of economic development, the Missouri [development finance board] **agricultural and small business development authority**, or the department of revenue in evaluating, administering, or implementing the development plan or any development project;

(11) To borrow money and issue obligations in accordance with sections 99.1000 to 99.1060 and provide security for any such loans or obligations;

(12) To insure or provide for the insurance of any real or personal property or operations of the municipality or authority against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of sections 99.1000 to 99.1060;

(13) Within a development area, to renovate, rehabilitate, own, operate, construct, repair, or improve any improvements, buildings, parking garages, fixtures, structures, and other facilities;

(14) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem obligations at the redemption price established therein or to purchase obligations at less than redemption price, all obligations so redeemed or purchased to be canceled;

(15) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, state, county, municipality, or other public body or from any sources, public or private, for the purposes of implementing a development plan, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality or authority, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a project such conditions imposed pursuant to federal law as the municipality or authority may deem reasonable and appropriate and which are not inconsistent with the purposes of sections 99.1000 to 99.1060;

(16) To incur development project costs and make such expenditures as may be necessary to carry out the purposes of sections 99.1000 to 99.1060; and to make expenditures from funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures;

(17) To loan the proceeds of obligations issued pursuant to sections 99.1000 to 99.1060 for the purpose of providing for the purchase, construction, extension, or improvement of public infrastructure related to a development project by a developer pursuant to a development contract approved by the municipality or authority in accordance with subdivision (2) of section 99.1021;

(18) To declare any funds, or any portion thereof, in the special allocation fund to be

excess funds, so long as such excess funds have not been pledged to the payment of outstanding obligations or outstanding development project costs, are not necessary for the payment of development project costs incurred or anticipated to be incurred, and are not required to pay baseline state sales taxes and baseline state withholding taxes to the director of revenue. Any such funds deemed to be excess shall be disbursed in the manner of surplus funds as provided in section 99.1051;

(19) To pledge or otherwise expend funds deposited to the special allocation fund, or any portion thereof, for the payment or reimbursement of development project costs incurred by the authority, the municipality, a developer selected by the municipality or authority, or any other entity with the consent of the municipality or authority; to pledge or otherwise expend funds deposited to the special allocation fund, or any portion thereof, or to mortgage or otherwise encumber its property, or any portion thereof, for the payment of obligations issued to finance development project costs; provided, however, any such pledge or expenditure of economic activity taxes or other net new revenues shall be subject to annual appropriation by the municipality; and

(20) To exercise all powers or parts or combinations of powers necessary, convenient, or appropriate to undertake and carry out development plans and any development projects and all the powers granted pursuant to sections 99.1000 to 99.1060, excluding powers of eminent domain.

3. If any member of the governing body of the municipality, a commissioner of the authority, or an employee or consultant of the municipality or authority, involved in the planning and preparation of a development project, owns or controls an interest, direct or indirect, in any property included in a development project area, the individual shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to a development project and from voting on any matter pertaining to such development project or communicating with other commissioners or members of the authority or the municipality concerning any matter pertaining to such development project. Furthermore, subject to the succeeding sentence, no such member, commissioner, employee, or consultant shall acquire any interest, direct or indirect, in any property in a development project area or proposed development project area after either such individual obtains knowledge of a development project, or first public notice of such development project, or development project area pursuant to subsection 2 of section 99.1036, whichever first occurs. At any time after one year from the adoption of an ordinance designating a development project area, any commissioner may acquire an interest in real estate located in a development project area

so long as any such commissioner discloses such acquisition and refrains from voting on any matter related to the development project area in which the property acquired by such commissioner is located.

4. An authority created pursuant to section 99.1006 shall have the following powers in addition to others granted pursuant to sections 99.1000 to 99.1060:

(1) To sue and to be sued; to have a seal and to alter the same at the authority's pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with sections 99.1000 to 99.1060, to carry out the provisions of sections 99.1000 to 99.1060;

(2) To delegate to a municipality or other public body any of the powers or functions of the authority with respect to the planning or undertaking of a development project, and any such municipality or public body is hereby authorized to carry out or perform such powers or functions for the authority;

(3) To receive and exercise powers delegated by any authority, agency, or agent of a municipality created pursuant to this chapter or chapter 353, RSMo, excluding powers of eminent domain.

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